

US Appl. No. 10/622,237

Docket No. 2873-US-CNT

3. Remarks

Claims 18 and 20-23 are pending with claim 18 being in independent form. Claims 1-17 and 19 have been previously cancelled.

35 U.S.C. §102

The Examiner has maintained his rejection of claims 18-20 under 35 U.S.C. §102(e1) and (e2) as assertedly anticipated by U.S. Patent Appln. Pub. No. 2002/0198147A1 and USPN 6,642,360, respectively. Applicants respectfully traverse.

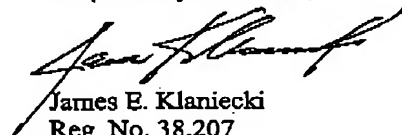
The Examiner notes that the Declaration previously submitted by Applicants sufficiently describes SEQ ID NO:2 and 4, but is silent with regard to antibodies. The Examiner also notes that the '147 application and the '360 patent teach antibodies against PRO355 and therefore anticipate the claimed invention. The Examiner states that "had the declaration contemplated the claimed antibodies, then the declaration would have been sufficient to overcome the rejections."

Applicants submit a new Declaration under 37 CFR §1.131 that addresses the Examiner's concerns. Dr. William Fanslow, co-inventor of the claimed invention, attests to the fact that "[p]rior to December 03, 1997 in this country, I envisioned making anti-human LDCAM antibodies. Such antibodies would serve a variety of uses, including determining cell surface expression of LDCAM and for immunoprecipitation of LDCAM. Prior to December 03, 1997, it was common practice at Immunex to make antibodies to newly discovered proteins."

As such, Applicants have established priority to the claimed invention prior to U.S. Patent Appln. Pub. No. 2002/0198147 and USPN 6,642,360. Applicants respectfully request reconsideration and allowance of the claims.

If any outstanding issues remain that may be easily reconciled, the Examiner is invited to telephone Applicants' representative at the number provided below.

Respectfully submitted,


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